

3 FAM 3180 RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES

(TL:PER-345; 12-15-1997)

3 FAM 3181 GENERAL INFORMATION

3 FAM 3181.1 Authority

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

This regulation implements the provisions of the Federal Employee's Pay Comparability Act (FEPCA) of 1990 dealing with the payment of certain incentive bonuses and allowances to augment agency recruitment and retention efforts; as found in:

— 5 U.S.C. 5753 and 5754; and

— 5 CFR Part 575

3 FAM 3181.2 Policy

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. These regulations include the elements of the Department's recruitment bonus plan, relocation bonus plan, and retention allowance plan.

b. Recruitment and relocation bonuses and retention allowances, will be used only when necessary to attract high quality applicants and/or retain employees with outstanding qualifications for positions in designated employment categories.

c. These incentive payments are not substitutes for a sound plan and thorough efforts to recruit and retain a well-qualified work force, but supplements the Department's recruitment and retention efforts.

d. Management shall ensure these regulations are applied in a fair and equitable manner regardless of service affiliation, in accordance with the provisions outlined in 5 CFR Part 575 and this subchapter.

e. The least costly incentive, or combination of incentives, necessary in each case shall be used.

3 FAM 3181.3 Definitions

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

In addition to the definitions found in 5 CFR 575.103, 575.203, and 575.303 the following terms have these definitions:

(1) **Approving official** — An agency official who has delegated responsibility and authority to approve the payment of a recruitment bonus, relocation bonus or retention allowance, usually the Under Secretary for Management or his or her designee, who is at least one management level above the recommending official in accordance with the provisions of 5 CFR, Part 575 and this subchapter.

(2) **Recommending official** — The supervisor over a **Civil or Foreign Service** position who would normally be responsible for making a selection to fill a vacant position.

(3) **Designated employment category** — A designation established by the Bureau of Personnel (PER) denoting an occupational group, position, set of duties and responsibilities, and/or geographic location for which the Department has experienced or is experiencing difficulty attracting and retaining highly qualified employees.

3 FAM 3181.4 Coverage

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. This subchapter covers positions in designated employment categories, that are:

— Positions described in 5 CFR 575.102, 575.202, and 575.302;

— Positions filled under the Foreign Service Act of 1980 (as amended);
and

— Positions filled under the United Nations Participation Act of 1945 (as amended).

b. Specifically excluded from coverage under this subchapter are:

— The Secretary of State;

— Any position to which an individual is appointed with the expectation of receiving an appointment as the Secretary of State; and

— Any position not specifically covered in 5 CFR 575.102, 575.202, 575.302, or this subchapter.

3 FAM 3181.5 Records

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. The determination to pay a recruitment or relocation bonus and/or retention allowance shall be documented in writing and supported by a corresponding service agreement (if applicable) in accordance with the procedures outlined in this subchapter and 3 FAH-1 H-3180 .

b. A file shall be maintained on each recruitment or relocation bonus and/or retention allowance requested in the appropriate Bureau of Personnel (PER) component, as follows:

— The Office of Civil Service Personnel Management (PER/CSP) for all Civil Service recruitment and relocation bonuses and retention allowances;

— The Office of Recruitment, Examination, and Employment (PER/REE) for Foreign Service recruitment bonuses; and

— The Office of Career Development and Assignments (PER/CDA) for Foreign Service relocation bonuses or retention allowances.

c. The Bureau of Finance and Management Policy (FMP) shall maintain a record of each recruitment and relocation bonus and/or retention allowance dispersed in accordance with the procedures outlined in 3-FAH 1 H-3180 .

3 FAM 3182 RESPONSIBILITIES AND DELEGATIONS

3 FAM 3182.1 Recommending Official

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. The recommending official is responsible for preparing a written recommendation with appropriate supporting documentation justifying the request for a recruitment or relocation bonus and/or retention allowance to be reviewed and approved by the appropriate Executive Director; and

b. In the case of a **retention** allowance, the recommending official is responsible for providing subsequent written documentation to the Executive Director, at least annually, to permit review and determination that the conditions which gave rise to the retention allowance still exist, and that payment is still warranted.

3 FAM 3182.2 Executive Directors

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

Executive Directors are responsible for:

(1) Determining whether the written recommendation and supporting documentation meet the requirements outlined in this subchapter and 3 FAH-1 H-3180 ;

(2) Documenting that funding is available for the purpose of paying the recommended recruitment or relocation bonus and/or retention allowance;

(3) Preparing a service agreement when applicable in accordance with the provisions of this subchapter and 3 FAH-1 H-3180 ;

(4) Obtaining approval from the responsible office in PER (see 3 FAM 3181.5 paragraph b) and the appropriate approving official, (the Director General of the Foreign Service and Director of Personnel (DGP) or the Under Secretary for Management (M), as appropriate) in accordance with this subchapter and 3-FAH-1 H-3180 ; and

(5) In the case of a **retention** allowance, ensuring that an annual review is conducted to determine whether the conditions which gave rise to the payment of a retention allowance still exist, and that payment is still warranted, **prior to the anniversary date of the original approval**; providing written documentation to the responsible PER office (see 3 FAM 3181.5 paragraph b) for annual review/certification by the designated approving official; if it is determined that payment is not warranted, notifying the appropriate office within the Bureau of Finance and Management Policy (FMP) in accordance with the procedures outlined in this subchapter and 3 FAH-1 H-3180 .

3 FAM 3182.3 Bureau of Finance and Management Policy

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. The Bureau of Finance and Management Policy (FMP) is responsible for disbursing the approved recruitment and relocation

bonuses, and/or retention allowances consistent with the provisions of this subchapter and the procedures outlined in 3 FAH-1 H-3180 .

b. Annually, FMP shall prepare a report to PER on the Department-wide use of recruitment and relocation bonuses and/or retention allowances dispersed in accordance with the provisions of this subchapter and the procedures outlined in 3 FAH-1 H-3180 .

3 FAM 3182.4 Personnel Office

(TL:PER-345 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

The responsible office in PER (see 3 FAM 3181.5 paragraph b) shall:

(1) Monitor the use and payment of recruitment and relocation bonuses and/or retention allowances to ensure their use conforms to the requirements established under 5 CFR, Part 575, and this subchapter;

(2) Prepare an annual report to the Director General of the Foreign Service and Director of Personnel (DGP) identifying the incentive type, recipient, organizational location, and amount paid for each approved recruitment or relocation bonus and/or retention allowance. These reports shall be made available for review, upon request by the U.S. Office of Personnel Management (OPM).

(3) Establish those occupational groups, positions, sets of duties and responsibilities, and/or geographic locations identified as “designated employment categories” for the purpose of authorizing payment of a recruitment or relocation bonus and/or retention allowance, in accordance with the procedures established in this subchapter and 3 FAH-1 H-3180 ;

(4) Ensure that all documentation contained in the recommendation package meets the requirements of 5 CFR, Part 575, and this subchapter;

(5) Ensure that copies of all documentation contained in the recommendation package are maintained in a separate file in accordance with this subchapter and the procedures outlined in 3 FAH-1 H-3180 ;

(6) Forward each initial decision for recruitment or relocation bonus and/or retention allowance (or initial decision for continuance, termination, or adjustment of a retention allowance) received from an executive office to the designated approving official, (the Director General of the Foreign Service and Director of Personnel (DGP) or through DGP to the Under Secretary for Management (M), as appropriate) for final approval; and

(7) In the case of a **retention** allowance, remind the bureau Executive Director of the requirement to annually review and determine that the conditions which gave rise to the payment of a retention allowance still exist, and that payment is still warranted, **prior to the anniversary date of the original approval**. If it is determined that the allowance is not warranted, notify the bureau Executive Director of his or her responsibility to inform the appropriate office within the Bureau of Finance and Management Policy (FMP) in accordance with the procedures outlined in this subchapter and 3 FAH-1 H-3180 .

3 FAM 3182.5 The Director General

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. The Director General of the Foreign Service and Director of Personnel (DGP) has oversight and management responsibility for the implementation of the Department's plans, and shall ensure that the Department's use of recruitment and relocation bonuses and/or retention allowances conforms to the requirements established in 5 CFR, Part 575, and this subchapter.

b. The DGP reviews and approves initial decisions concerning payment of recruitment or relocation bonuses and/or retention allowances (or changes thereto), including those proposed for an individual who would be subject to mandatory retirement prior to the termination of a service agreement (see 3 FAM 3183.1 paragraph e); with the exception of initial decisions at the Assistant Secretary level or higher, which require the final approval of the Under Secretary for Management (M).

3 FAM 3183 RECRUITMENT AND RELOCATION BONUSES

3 FAM 3183.1 Criteria for Payment

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. Each recruitment or relocation bonus paid shall be based on a written determination that in the absence of such a bonus, serious difficulty would be encountered in filling the position with a high quality candidate. Each determination shall be made before the employee actually enters on duty in the position for which he or she was recruited or to which he or she is being relocated. In addition to a review of established justification criteria (see section 3 FAM 3183.1 paragraph d) the following conditions apply:

(1) For a **recruitment** bonus — To an employee who is newly appointed to a covered position (see 3 FAM 3181.4 paragraph a in a designated employment category, or to an individual who has received a written offer of employment to a position in a designated employment category; or

(2) For a **relocation** bonus — To an employee who is assigned without a break in service to a covered position (see 3 FAM 3181.4 paragraph a in a designated employment category, in a different commuting area, or whose duty station is changed temporarily to a different commuting area.

b. A relocation bonus may not be paid to an individual whose conditions of employment include worldwide availability, or a similar mobility agreement, **and** whose relocation involves a position outside the continental United States. A Foreign Service employee rotating to a designated position within the continental United States may be eligible for a relocation bonus subject to established coverage criteria, and the provisions outlined in this subchapter.

c. Each determination to approve payment of a recruitment or relocation bonus shall be based on:

(1) A review and written justification that the recommended incentive is necessary to avoid serious difficulty in filling the position with a high quality candidate; and

(2) Whether such payment is in the best interests of the Department, in accordance with the criteria outlined in this subchapter and 3 FAH-1 H-3180

d. In determining whether a recruitment or relocation bonus should be paid, including the amount of such a bonus, consideration must be given to the following factors, as applicable, and addressed in the written documentation prepared by the recommending official:

(1) The success of recent efforts to recruit high quality candidates for similar positions (including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions);

(2) Recent turnover in similar positions;

(3) Labor market factors that may affect the ability of the Department to recruit qualified internal and external candidates, now or in the future, for similar positions (may include such factors as salary ranges among comparable positions, scarcity of skills, emerging technology, and hazardous conditions);

(4) Special or unique qualifications needed for the position;

(5) (For **recruitment** bonus only) The practicality of using the superior qualifications appointment authority provided by 5 U.S.C. 5333 and 5 CFR 531.203(b), Section 302(1) of the Foreign Service Act of 1980, or other such incentives (alone or in combination with a recruitment bonus);

(6) Positive and negative impact on the morale of current employees;

(7) A discussion of the rationale concerning the bonus amount requested (expressed as a percentage of basic salary (see 3 FAM 3183.2 paragraph a));

(8) The urgency of filling the position in question; and

(9) Any other factors that would support or are relevant to the justification for payment of the recommended bonus.

e. A recruitment or relocation bonus will not be approved for an individual who will reach mandatory retirement age under 5 U.S.C. 8335 and 8425, Section 812 of the Foreign Service Act of 1980, or any other relevant provision of law prior to the expiration of the service agreement, without the express written consent of the Director General of the Foreign Service and Director of Personnel (M/DGP) (see 3 FAM 3182.5). This limitation shall not be construed in such a manner as to preclude consideration of a relocation bonus for an otherwise eligible employee who will reach the limitation for maximum time-in-class, unless it is known at the time of recommendation that the individual shall be retired from the Foreign Service under Section 607 of the Foreign Service Act, prior to the expiration of the service agreement.

3 FAM 3183.2 Payment of Bonuses

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. Recruitment and relocation bonuses shall be calculated as a full percentage of the employee's annual rate of basic pay, exclusive of any additional pay or other geographic locality adjustments under Section 302 of the Federal Employee's Pay Comparability Act of 1990, and may not exceed 25% of basic pay.

b. Recruitment and relocation bonuses will be paid in a lump-sum, and are **not** considered part of an employee's rate of basic pay for any purpose.

c. In the case of a **relocation** bonus — An employee who is entitled to grade or pay retention shall receive the bonus calculated on the employee's retained rate. This fact should also be considered when determining the appropriate percentage of a retention allowance.

d. In the case of a law enforcement officer within the meaning of 5 U.S.C. 8331(20) or 8401(17), with respect to whom the provisions of 5 U.S.C., Chapter 51 apply, or a special agent in the Diplomatic Security Service, the amount of a **relocation** bonus may be the greater of \$15,000 or 25% of the officer's annual rate of basic pay.

e. Recruitment and relocation bonuses may be authorized for an employee (or a prospective employee) even if such a bonus will, when added to the annual rate of all other payments (as defined in 5 CFR 530.202) to which the employee is entitled, cause the annual rate to exceed the rate then payable for Level I of the Executive Schedule. However, any such excess must be carried over and paid in lump sum at the beginning of the next calendar year (5 CFR 530.204), in accordance with this subchapter and 3 FAH-1 H-3180 ;

f. In the case of a **relocation** bonus — The employee must establish residence in the new commuting area before the bonus can be paid. Proof that an employee has established such a residence must be forwarded to the responsible Executive Director (see 3 FAM 3182.2) for determination, prior to the actual payment of the relocation bonus.

3 FAM 3183.3 Service Agreements

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. An employee may not be paid a recruitment or relocation bonus until he or she has signed a written service agreement to complete a specified period of employment with the Department.

b. Except as provided in paragraphs (1) and (2) below, the period of employment under a written service agreement for a recruitment or relocation bonus shall be twelve months from the date of appointment or relocation to the new duty station.

(1) Service agreements for **relocation** bonuses based on a temporary change in duty station may be established for periods of less than twelve months, but may not be less than the projected duration of the temporary change in duty station, if it is less than twelve months.

(2) On a case-by-case basis, longer periods may be established for service agreements, based upon consideration of the following: high ratio of bonus to basic salary, training or orientation time needed for the individual to reach full productivity, work of a project nature, other incentives the individual might have received, or exceptional circumstances.

c. Service agreements will run concurrently with other simultaneous or subsequent service agreements in effect.

d. The presence or absence of a service agreement in connection with a recruitment or relocation bonus will not be a consideration for actions under the Department's Merit Promotion Program. However, selection under a merit program does not abrogate an employee's repayment obligation under section 3 FAM 3183-4 .

e. In the event of a transfer of function within the Department or between agencies, the service agreement remains in effect.

3 FAM 3183.4 Repayment of Bonuses

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. Except as provided in section 3 FAM 3183.4 paragraph c, an employee who fails to complete the established period of employment in a position covered by the service agreement will be indebted to the Federal Government and required to repay the recruitment or relocation bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment completed by the employee under the service agreement.

b. Amounts owed by an employee under Section 3 FAM 3183.4 paragraph a will be recovered from the employee under the provisions of 5 U.S.C. 5514, 5 CFR 550, Subpart K, and 22 CFR Part 34.

c. Section 3 FAM 3183.4 paragraph a does not apply when an employee fails to complete a period of employment established under a service agreement because the employee:

(1) Is involuntarily separated;

(2) Is relocated to a position in a different commuting area after receiving a written determination by the appropriate management official that it is necessary to relocate the employee; or

(3) Is promoted or reassigned to a similar position in the same bureau, and in the case of a **relocation** bonus — in the same commuting location. In this case, the service agreement will transfer with the employee and if he or she fails to complete the remainder of the service agreement, see 3 FAM 3283.4 paragraph a will apply.

d. The right of recovery of an employee's debt under 5 U.S.C. 5514 may be waived in whole or in part by Bureau of Finance and Management Policy (FMP) in accordance with the procedures in 22 CFR Part 34, if it is determined that recovery would be against equity and good conscience, or against the public interest.

3 FAM 3184 RETENTION ALLOWANCES

3 FAM 3184.1 Conditions for Payment

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. Each retention allowance paid shall be based on a written determination that the unusually high or unique qualifications of the employee and/or a special need of the Department for the employee's services in a designated employment category make it essential to retain the employee, and that in the absence of such a bonus, the employee would be likely to leave Federal service.

b. A retention allowance may be paid to an employee only if the employee is likely to leave Federal service for employment outside the executive, legislative, or judicial branch of the Federal government. A retention allowance may **not** be paid to an employee who is likely to leave his or her position for other employment in the executive, legislative, or judicial branch of the Federal government, whether in the same or different agency.

c. Except as provided in 3 FAM 3184.1 paragraph d, to be eligible for a retention allowance, an employee must be serving under a Federal appointment authority and complete at least one year of current continuous service with the Department immediately prior to the payment of the allowance.

d. In the case of a retention allowance which follows a period of service required for payment of a recruitment or relocation bonus, an employee must complete the period of employment established by the service agreement before he or she is eligible to receive a retention allowance.

3 FAM 3184.2 Criteria for Payment

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

In determining whether a retention allowance should be paid, including the amount of such an allowance, consideration must be given to each of the following factors as appropriate, and addressed in the written documentation prepared by the recommending official:

(1) The extent to which the departure of the employee would affect the Department's ability to carry out a program activity or perform a function that is deemed essential to the Department's mission;

(2) The success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee;

(3) The availability in the labor market of candidates for employment who, with minimal training or disruption of service to the public, could perform the full range of duties and responsibilities assigned to the position held by the employee;

(4) The likely effects of such payment on the morale of current employees;

(5) The likely duration of the retention allowance and the probability that the allowance will be extended beyond the initial period for which requested;

(6) A discussion of the rationale concerning the amount requested (expressed as a percentage of basic salary);

(7) The current and expected performance level of the employee;

(8) The relationship of a retention allowance to such payments as previous recruitment or relocation bonuses for which a service agreement has been completed, salary based on superior qualifications, performance awards, or other payments that affect the aggregate monies received by the employee; and

(9) Other special or unique requirements for the employee's services.

3 FAM 3184.3 Payment of Allowance

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. A retention allowance shall be calculated as a full percentage of the employee's annual rate of basic pay (not to exceed 25%). Basic pay is defined in 5 CFR 575.303.

b. Retention allowances will be paid at an hourly rate for each hour during which the employee receives basic pay, but will **not** be considered part of an employee's rate of basic pay for any purpose.

c. An employee who is entitled to grade or pay retention shall receive the allowance calculated on the employee's retained rate.

d. Retention allowances **may not be authorized** for an employee if or to the extent that such an allowance, when added to the employee's estimated aggregate compensation (as defined in 5 CFR 530.202) to which the employee is entitled, would cause the aggregate compensation actually

received by the employee during the calendar year to exceed the rate then payable for Level I of the Executive Schedule.

e. Payment of a retention allowance may be continued as long as the conditions giving rise to the original determination to pay the allowance still exist, and payment is still warranted.

3 FAM 3184.4 Reduction or Termination of Allowance

(TL:PER-345; 12-15-1997)

(State Only)

(Applies to Foreign Service and Civil Service)

a. At the time an increase in one or more non-discretionary continuing payments to an employee (for example, basic pay, locality pay, interim geographic adjustment), causes the employee's estimated aggregate compensation (as defined in 5 CFR 530.202) to exceed the aggregate limitation on pay, the Department shall reduce the amount of the retention allowance to the extent necessary to ensure that the aggregate compensation that the employee receives does not exceed the rate then payable for Level I of the Executive Schedule at the end of the calendar year.

b. The responsible executive office shall conduct an annual review (or more often as necessary) to determine whether the conditions which gave rise to the payment of a retention allowance still exist, and that payment is still warranted. The recommending official must prepare and submit written documentation to the appropriate Executive Director regarding the continuance, termination, or adjustment of the retention allowance. The Executive Director shall make the initial decision in writing and forward approved documentation to the responsible PER office (see 3 FAM 3181.5 paragraph b) for the annual review/final approval of the designated approving official (the Director General of the Foreign Service and Director of Personnel or the Under Secretary for Management, as appropriate.) If it is determined that payment is not warranted, the executive office shall notify the appropriate office within the Bureau of Finance and Management Policy (FMP) in accordance with the procedures outlined in this subchapter and 3 FAH-1 H-3180 .

c. Payment of a retention allowance shall be reduced or terminated when the approving office determines that:

(1) A lesser amount (or none at all) would be sufficient to retain the employee;

(2) Labor market factors make it more likely to recruit a candidate with qualifications similar to those possessed by the employee;

(3) The Department's need for the services of the employee has been reduced to a level that make it unnecessary to continue payment at the level originally approved (or at all);

(4) Budgetary considerations make it difficult to continue payment at the level originally approved (or at all);

(5) The employee leaves the position for which the retention allowance was authorized;

(6) The employee's performance falls below the Fully Successful level;
or

(7) The period initially authorized for payment of a retention allowance has expired and no approval has been granted to continue the payment.

d. Except for a reduction required under 3 FAM 3184.4 paragraph a, if a retention allowance is reduced or terminated prior to the period for which it was authorized, written notice must be provided to the employee by the responsible PER office (see 3 FAM 3181.5 paragraph b), in accordance with the provisions of this subchapter and 3-FAH-1 H-3180 .

e. The reduction or termination of a retention allowance may not be appealed. However, this does not alter an individual's rights or remedy under 5 U.S.C., Chapter 12 or any of the laws referred to in 5 U.S.C. 2302(d).

3 FAM 3185 THROUGH 3189 UNASSIGNED